

1 AMENDMENT TO SENATE BILL 1332

2 AMENDMENT NO. _____. Amend Senate Bill 1332 by replacing
3 the title with the following:

4 "AN ACT concerning health facilities."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Illinois Health Facilities Planning Act
8 is amended by changing Sections 3, 4, 5.3, 6, 10, 12, 12.2,
9 13, and 19.6 and by adding Section 12.3 as follows:

10 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

11 (Section scheduled to be repealed on July 1, 2003)

12 Sec. 3. Definitions. As used in this Act:

13 "Health care facilities" means and includes the following
14 facilities and organizations:

15 1. An ambulatory surgical treatment center required
16 to be licensed pursuant to the Ambulatory Surgical
17 Treatment Center Act;

18 2. An institution, place, building, or agency
19 required to be licensed pursuant to the Hospital
20 Licensing Act;

21 3. Skilled and intermediate long term care

1 facilities licensed under the Nursing Home Care Act;

2 3. Skilled and intermediate long term care
3 facilities licensed under the Nursing Home Care Act;

4 4. Hospitals, nursing homes, ambulatory surgical
5 treatment centers, or kidney disease treatment centers
6 maintained by the State or any department or agency
7 thereof;

8 5. Kidney disease treatment centers, including a
9 free-standing hemodialysis unit; and

10 6. An institution, place, building, or room used
11 for the performance of outpatient surgical procedures
12 that is leased, owned, or operated by or on behalf of an
13 out-of-state facility.

14 No federally owned facility shall be subject to the
15 provisions of this Act, nor facilities used solely for
16 healing by prayer or spiritual means.

17 No facility licensed under the Supportive Residences
18 Licensing Act or the Assisted Living and Shared Housing Act
19 shall be subject to the provisions of this Act.

20 A facility designated as a supportive living facility
21 that is in good standing with the demonstration project
22 established under Section 5-5.01a of the Illinois Public Aid
23 Code shall not be subject to the provisions of this Act.

24 This Act does not apply to facilities granted waivers
25 under Section 3-102.2 of the Nursing Home Care Act. However,
26 if a demonstration project under that Act applies for a
27 certificate of need to convert to a nursing facility, it
28 shall meet the licensure and certificate of need requirements
29 in effect as of the date of application.

30 This Act shall not apply to the closure of an entity or a
31 portion of an entity licensed under the Nursing Home Care Act
32 that elects to convert, in whole or in part, to an assisted
33 living or shared housing establishment licensed under the
34 Assisted Living and Shared Housing Establishment Act.

1 With the exception of those health care facilities
2 specifically included in this Section, nothing in this Act
3 shall be intended to include facilities operated as a part of
4 the practice of a physician or other licensed health care
5 professional, whether practicing in his individual capacity
6 or within the legal structure of any partnership, medical or
7 professional corporation, or unincorporated medical or
8 professional group. Further, this Act shall not apply to
9 physicians or other licensed health care professional's
10 practices where such practices are carried out in a portion
11 of a health care facility under contract with such health
12 care facility by a physician or by other licensed health care
13 professionals, whether practicing in his individual capacity
14 or within the legal structure of any partnership, medical or
15 professional corporation, or unincorporated medical or
16 professional groups. This Act shall apply to construction or
17 modification and to establishment by such health care
18 facility of such contracted portion which is subject to
19 facility licensing requirements, irrespective of the party
20 responsible for such action or attendant financial
21 obligation.

22 "Person" means any one or more natural persons, legal
23 entities, governmental bodies other than federal, or any
24 combination thereof.

25 "Consumer" means any person other than a person (a) whose
26 major occupation currently involves or whose official
27 capacity within the last 12 months has involved the
28 providing, administering or financing of any type of health
29 care facility, (b) who is engaged in health research or the
30 teaching of health, (c) who has a material financial interest
31 in any activity which involves the providing, administering
32 or financing of any type of health care facility, or (d) who
33 is or ever has been a member of the immediate family of the
34 person defined by (a), (b), or (c).

1 "State Board" means the Health Facilities Planning Board.

2 "Construction or modification" means the establishment,
3 erection, building, alteration, reconstruction,
4 modernization, improvement, extension, discontinuation,
5 change of ownership, of or by a health care facility, or the
6 purchase or acquisition by or through a health care facility
7 of equipment or service for diagnostic or therapeutic
8 purposes or for facility administration or operation, or any
9 capital expenditure made by or on behalf of a health care
10 facility which exceeds the capital expenditure minimum;
11 however, any capital expenditure made by or on behalf of a
12 health care facility for the construction or modification of
13 a facility licensed under the Assisted Living and Shared
14 Housing Act shall be excluded from any obligations under this
15 Act.

16 "Establish" means the construction of a health care
17 facility or the replacement of an existing facility on
18 another site.

19 "Major medical equipment" means medical equipment which
20 is used for the provision of medical and other health
21 services and which costs in excess of the capital expenditure
22 minimum, except that such term does not include medical
23 equipment acquired by or on behalf of a clinical laboratory
24 to provide clinical laboratory services if the clinical
25 laboratory is independent of a physician's office and a
26 hospital and it has been determined under Title XVIII of the
27 Social Security Act to meet the requirements of paragraphs
28 (10) and (11) of Section 1861(s) of such Act. In determining
29 whether medical equipment has a value in excess of the
30 capital expenditure minimum, the value of studies, surveys,
31 designs, plans, working drawings, specifications, and other
32 activities essential to the acquisition of such equipment
33 shall be included.

34 "Capital Expenditure" means an expenditure: (A) made by

1 or on behalf of a health care facility (as such a facility is
2 defined in this Act); and (B) which under generally accepted
3 accounting principles is not properly chargeable as an
4 expense of operation and maintenance, or is made to obtain by
5 lease or comparable arrangement any facility or part thereof
6 or any equipment for a facility or part; and which exceeds
7 the capital expenditure minimum.

8 For the purpose of this paragraph, the cost of any
9 studies, surveys, designs, plans, working drawings,
10 specifications, and other activities essential to the
11 acquisition, improvement, expansion, or replacement of any
12 plant or equipment with respect to which an expenditure is
13 made shall be included in determining if such expenditure
14 exceeds the capital expenditures minimum. Donations of
15 equipment or facilities to a health care facility which if
16 acquired directly by such facility would be subject to review
17 under this Act shall be considered capital expenditures, and
18 a transfer of equipment or facilities for less than fair
19 market value shall be considered a capital expenditure for
20 purposes of this Act if a transfer of the equipment or
21 facilities at fair market value would be subject to review.

22 "Capital expenditure minimum" means \$6,000,000, which
23 shall be annually adjusted to reflect the increase in
24 construction costs due to inflation, for major medical
25 equipment and for all other capital expenditures; provided,
26 however, that when a capital expenditure is for the
27 construction or modification of a health and fitness center,
28 "capital expenditure minimum" means the capital expenditure
29 minimum for all other capital expenditures in effect on March
30 1, 2000, which shall be annually adjusted to reflect the
31 increase in construction costs due to inflation.

32 "Non-clinical service area" means an area (i) for the
33 benefit of the patients, visitors, staff, or employees of a
34 health care facility and (ii) not directly related to the

1 diagnosis, treatment, or rehabilitation of persons receiving
2 services from the health care facility. "Non-clinical
3 service areas" include, but are not limited to, chapels; gift
4 shops; news stands; computer systems; tunnels, walkways, and
5 elevators; telephone systems; projects to comply with life
6 safety codes; educational facilities; student housing;
7 patient, employee, staff, and visitor dining areas;
8 administration and volunteer offices; modernization of
9 structural components (such as roof replacement and masonry
10 work); boiler repair or replacement; vehicle maintenance and
11 storage facilities; parking facilities; mechanical systems
12 for heating, ventilation, and air conditioning; loading
13 docks; and repair or replacement of carpeting, tile, wall
14 coverings, window coverings or treatments, or furniture.
15 Solely for the purpose of this definition, "non-clinical
16 service area" does not include health and fitness centers.

17 "Areawide" means a major area of the State delineated on
18 a geographic, demographic, and functional basis for health
19 planning and for health service and having within it one or
20 more local areas for health planning and health service. The
21 term "region", as contrasted with the term "subregion", and
22 the word "area" may be used synonymously with the term
23 "areawide".

24 "Local" means a subarea of a delineated major area that
25 on a geographic, demographic, and functional basis may be
26 considered to be part of such major area. The term
27 "subregion" may be used synonymously with the term "local".

28 "Areawide health planning organization" or "Comprehensive
29 health planning organization" means the health systems agency
30 designated by the Secretary, Department of Health and Human
31 Services or any successor agency.

32 "Local health planning organization" means those local
33 health planning organizations that are designated as such by
34 the areawide health planning organization of the appropriate

1 area.

2 "Physician" means a person licensed to practice in
3 accordance with the Medical Practice Act of 1987, as amended.

4 "Licensed health care professional" means a person
5 licensed to practice a health profession under pertinent
6 licensing statutes of the State of Illinois.

7 "Director" means the Director of the Illinois Department
8 of Public Health.

9 "Agency" means the Illinois Department of Public Health.

10 "Comprehensive health planning" means health planning
11 concerned with the total population and all health and
12 associated problems that affect the well-being of people and
13 that encompasses health services, health manpower, and health
14 facilities; and the coordination among these and with those
15 social, economic, and environmental factors that affect
16 health.

17 "Alternative health care model" means a facility or
18 program authorized under the Alternative Health Care Delivery
19 Act.

20 "Out-of-state facility" means a person that is both (i)
21 licensed as a hospital or as an ambulatory surgery center
22 under the laws of another state or that qualifies as a
23 hospital or an ambulatory surgery center under regulations
24 adopted pursuant to the Social Security Act and (ii) not
25 licensed under the Ambulatory Surgical Treatment Center Act,
26 the Hospital Licensing Act, or the Nursing Home Care Act.
27 Affiliates of out-of-state facilities shall be considered
28 out-of-state facilities. Affiliates of Illinois licensed
29 health care facilities 100% owned by an Illinois licensed
30 health care facility, its parent, or Illinois physicians
31 licensed to practice medicine in all its branches shall not
32 be considered out-of-state facilities. Nothing in this
33 definition shall be construed to include an office or any
34 part of an office of a physician licensed to practice

1 medicine in all its branches in Illinois that is not required
2 to be licensed under the Ambulatory Surgical Treatment Center
3 Act.

4 "Change of ownership of a health care facility" means a
5 change in the person who has ownership or control of a health
6 care facility's physical plant and capital assets. A change
7 in ownership is indicated by the following transactions:
8 sale, transfer, acquisition, lease, change of sponsorship, or
9 other means of transferring control.

10 "Related person" means any person that: (i) is at least
11 50% owned, directly or indirectly, by either the health care
12 facility or a person owning, directly or indirectly, at least
13 50% of the health care facility; or (ii) owns, directly or
14 indirectly, at least 50% of the health care facility.

15 (Source: P.A. 90-14, eff. 7-1-97; 91-656, eff. 1-1-01;
16 91-782, eff. 6-9-00; revised 11-6-02.)

17 (20 ILCS 3960/4) (from Ch. 111 1/2, par. 1154)

18 (Section scheduled to be repealed on July 1, 2003)

19 Sec. 4. Health Facilities Planning Board; membership;
20 appointment; term; compensation; quorum. There is created
21 the Health Facilities Planning Board, which shall perform the
22 such functions as-hereinafter described in this Act.

23 Notwithstanding any provision of this Section to the
24 contrary, the term of office of each member of the State
25 Board is abolished on the effective date of this amendatory
26 Act of the 93rd General Assembly, but all incumbent members
27 shall continue to exercise all of the powers and be subject
28 to all of the duties of members of the State Board until all
29 new members of the 9-member State Board authorized under this
30 amendatory Act of the 93rd General Assembly are appointed and
31 take office. Beginning on the effective date of this
32 amendatory Act of the 93rd General Assembly, the State Board
33 shall consist of 9 voting members. The terms of the 9 members

1 appointed to the State Board under this amendatory Act of the
2 93rd General Assembly shall commence on the effective date of
3 this amendatory Act of the 93rd General Assembly and run as
4 follows: (i) 3 members shall serve for a term ending July 1,
5 2004; (ii) 3 members shall serve for a term ending July 1,
6 2005; and (iii) 3 members shall serve for a term ending July
7 1, 2006. The State Board shall consist of 15 voting members,
8 including: 8 consumer members; one member representing the
9 commercial health insurance industry in Illinois; one member
10 representing hospitals in Illinois; one member who is
11 actively engaged in the field of hospital management; one
12 member who is a professional nurse registered in Illinois;
13 one member who is a physician in active private practice
14 licensed in Illinois to practice medicine in all of its
15 branches; one member who is actively engaged in the field of
16 skilled nursing or intermediate care facility management; and
17 one member who is actively engaged in the administration of
18 an ambulatory surgical treatment center licensed under the
19 Ambulatory Surgical Treatment Center Act.

20 The State Board shall be appointed by the Governor, with
21 the advice and consent of the Senate. In making the
22 appointments, the Governor shall give consideration to
23 recommendations made by (1) the professional organizations
24 concerned with hospital management for the hospital
25 management appointment, (2) professional organizations
26 concerned with long term care facility management for the
27 long term care facility management appointment, (3)
28 professional medical organizations for the physician
29 appointment, (4) professional nursing organizations for the
30 nurse appointment, and (5) professional organizations
31 concerned with ambulatory surgical treatment centers for the
32 ambulatory surgical treatment center appointment, and shall
33 appoint as consumer members individuals familiar with
34 community health needs but whose interest in the operation,

1 construction or utilization of health care facilities are
 2 derived from factors other than those related to his
 3 profession, business, or economic gain, and who represent, so
 4 far as possible, different geographic areas of the State. Not
 5 more than 5/8 of the appointments shall be of the same
 6 political party. No person shall be appointed as a State
 7 Board member if that person has served, after the effective
 8 date of this amendatory Act of the 93rd General Assembly, 2
 9 consecutive 3-year terms as a State Board member, except for
 10 ex officio non-voting members.

11 The Secretary of Human Services, the Director of Public
 12 Aid, and the Director of Public Health, or their designated
 13 representatives, shall serve as ex-officio, non-voting
 14 members of the State Board.

15 Of those appointed by the Governor as voting members,
 16 each member shall hold office for a term of 3 years:
 17 provided, that any member appointed to fill a vacancy
 18 occurring prior to the expiration of the term for which his
 19 predecessor was appointed shall be appointed for the
 20 remainder of such term and the term of office of each
 21 successor shall commence on July 1 of the year in which his
 22 predecessor's term expires. ~~In making original appointments~~
 23 ~~to the State Board, the Governor shall appoint 5 members for~~
 24 ~~a term of one year, 5 for a term of 2 years, and 3 for a term~~
 25 ~~of 3 years, and each of these terms of office shall commence~~
 26 ~~on July 1, 1974. The initial term of office for the members~~
 27 ~~appointed under this amendatory Act of 1996 shall begin on~~
 28 ~~July 1, 1996 and shall last for 2 years, and each subsequent~~
 29 ~~appointment shall be for a term of 3 years.~~ Each member shall
 30 hold office until his successor is appointed and qualified.

31 State Board members, while serving on business of the
 32 State Board, shall receive actual and necessary travel and
 33 subsistence expenses while so serving away from their places
 34 of residence. In addition, while serving on business of the

1 State Board, each member shall receive compensation of \$150
2 per day, except that such compensation shall not exceed
3 \$7,500 in any one year for any member.

4 The State Board shall provide for its own organization
5 and procedures, including the selection of a Chairman and
6 such other officers as deemed necessary. The Director, with
7 concurrence of the State Board, shall name as full-time
8 Executive Secretary of the State Board, a person qualified in
9 health care facility planning and in administration. The
10 Agency shall provide administrative and staff support for the
11 State Board. The State Board shall advise the Director of
12 its budgetary and staff needs and consult with the Director
13 on annual budget preparation.

14 The State Board shall meet at least once each quarter, or
15 as often as the Chairman of the State Board deems necessary,
16 or upon the request of a majority of the members.

17 A majority of the voting Eight members of the State Board
18 who currently hold office shall constitute a quorum. The
19 affirmative vote of a majority 8 of the voting members of the
20 State Board who currently hold office shall be necessary for
21 any action requiring a vote to be taken by the State Board. A
22 vacancy in the membership of the State Board shall not impair
23 the right of a quorum to exercise all the rights and perform
24 all the duties of the State Board as provided by this Act.

25 A State Board member shall disqualify himself or herself
26 from the consideration of any application for a permit or
27 exemption in which the State Board member or the State Board
28 member's spouse, parent, or child: (i) has an economic
29 interest in the matter; or (ii) is employed by, serves as a
30 consultant for, or is a member of the governing board of the
31 applicant or a party opposing the application.

32 (Source: P.A. 90-14, eff. 7-1-97; 91-782, eff. 6-9-00.)

1 (Section scheduled to be repealed on July 1, 2003)

2 Sec. 5.3. Annual report of capital expenditures. In
3 addition to the State Board's authority to require reports,
4 the State Board shall require each health care facility to
5 submit an annual report of all capital expenditures in excess
6 of \$200,000 (which shall be annually adjusted to reflect the
7 increase in construction costs due to inflation) made by the
8 health care facility during the most recent year. This
9 annual report shall consist of a brief description of the
10 capital expenditure, the amount and method of financing the
11 capital expenditure, the certificate of need project number
12 if the project was reviewed, and the total amount of capital
13 expenditures obligated for the year. Data collected from
14 health care facilities pursuant to this Section shall not
15 duplicate or overlap other data collected by the Department
16 and must be collected as part of the Department's Annual
17 Questionnaires or supplements for health care facilities that
18 report these data.

19 (Source: P.A. 91-782, eff. 6-9-00.)

20 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

21 (Section scheduled to be repealed on July 1, 2003)

22 Sec. 6. Application for permit or exemption; exemption
23 regulations.

24 (a) An application for a permit or exemption shall be
25 made to the State Board upon forms provided by the State
26 Board. This application shall contain such information as
27 the State Board deems necessary. Such application shall
28 include affirmative evidence on which the Director may make
29 the findings required under this Section and upon which the
30 State Board may make its decision on the approval or denial
31 of the permit or exemption.

32 (b) The State Board shall establish by regulation the
33 procedures and requirements regarding issuance of exemptions.

1 An exemption shall be approved when information required by
2 the Board by rule is submitted. Projects eligible for an
3 exemption, rather than a permit, include, but are not limited
4 to, change of ownership of a health care facility. For a
5 change of ownership of a health care facility between related
6 persons, the State Board shall provide by rule for an
7 expedited process for obtaining an exemption.

8 (c) All applications shall be signed by the applicant
9 and shall be verified by any 2 officers thereof.

10 (d) Upon receipt of an application for a permit, the
11 State Board shall approve and authorize the issuance of a
12 permit if it finds (1) that the applicant is fit, willing,
13 and able to provide a proper standard of health care service
14 for the community with particular regard to the
15 qualification, background and character of the applicant, (2)
16 that economic feasibility is demonstrated in terms of effect
17 on the existing and projected operating budget of the
18 applicant and of the health care facility; in terms of the
19 applicant's ability to establish and operate such facility in
20 accordance with licensure regulations promulgated under
21 pertinent state laws; and in terms of the projected impact on
22 the total health care expenditures in the facility and
23 community, (3) that safeguards are provided which assure that
24 the establishment, construction or modification of the health
25 care facility or acquisition of major medical equipment is
26 consistent with the public interest, and (4) that the
27 proposed project is consistent with the orderly and economic
28 development of such facilities and equipment and is in accord
29 with standards, criteria, or plans of need adopted and
30 approved pursuant to the provisions of Section 12 of this
31 Act.

32 (Source: P.A. 88-18.)

33 (20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

1 (Section scheduled to be repealed on July 1, 2003)

2 Sec. 10. Presenting information relevant to the approval
3 of a permit or certificate or in opposition to the denial of
4 the application; notice of outcome and review proceedings.

5 When a motion by the State Board, to approve an application
6 for a permit or a certificate of recognition, fails to pass,
7 or when a motion to deny an application for a permit or a
8 certificate of recognition is passed, the applicant or the
9 holder of the permit, as the case may be, and such other
10 parties as the State Board permits, will be given an
11 opportunity to appear before the State Board and present such
12 information as may be relevant to the approval of a permit or
13 certificate or in opposition to the denial of the
14 application.

15 Subsequent to an appearance by the applicant before the
16 State Board or default of such opportunity to appear, a
17 motion by the State Board to approve an application for a
18 permit or a certificate of recognition which fails to pass or
19 a motion to deny an application for a permit or a certificate
20 of recognition which passes shall be considered denial of
21 the application for a permit or certificate of recognition,
22 as the case may be. Such action of denial or an action by
23 the State Board to revoke a permit or a certificate of
24 recognition shall be communicated to the applicant or holder
25 of the permit or certificate of recognition. Such person or
26 organization shall be afforded an opportunity for a hearing
27 before a hearing officer, who is appointed by the Director
28 State-Board. A written notice of a request for such hearing
29 shall be served upon the Chairman of the State Board within
30 30 days following notification of the decision of the State
31 Board. The State Board shall schedule a hearing, and the
32 Director ~~Chairman~~ shall appoint a hearing officer within 30
33 days thereafter. The hearing officer shall take actions
34 necessary to ensure that the hearing is completed within a

1 reasonable period of time, but not to exceed 90 days, except
2 for delays or continuances agreed to by the person requesting
3 the hearing. Following its consideration of the report of
4 the hearing, or upon default of the party to the hearing, the
5 State Board shall make its final determination, specifying
6 its findings and conclusions within 45 days of receiving the
7 written report of the hearing. A copy of such determination
8 shall be sent by certified mail or served personally upon the
9 party.

10 A full and complete record shall be kept of all
11 proceedings, including the notice of hearing, complaint, and
12 all other documents in the nature of pleadings, written
13 motions filed in the proceedings, and the report and orders
14 of the State Board or hearing officer. All testimony shall be
15 reported but need not be transcribed unless the decision is
16 appealed in accordance with the Administrative Review Law, as
17 now or hereafter amended. A copy or copies of the transcript
18 may be obtained by any interested party on payment of the
19 cost of preparing such copy or copies.

20 The State Board or hearing officer shall upon its own or
21 his motion, or on the written request of any party to the
22 proceeding who has, in the State Board's or hearing officer's
23 opinion, demonstrated the relevancy of such request to the
24 outcome of the proceedings, issue subpoenas requiring the
25 attendance and the giving of testimony by witnesses, and
26 subpoenas duces tecum requiring the production of books,
27 papers, records, or memoranda. The fees of witnesses for
28 attendance and travel shall be the same as the fees of
29 witnesses before the circuit court of this State.

30 When the witness is subpoenaed at the instance of the
31 State Board, or its hearing officer, such fees shall be paid
32 in the same manner as other expenses of the Agency, and when
33 the witness is subpoenaed at the instance of any other party
34 to any such proceeding the State Board may, in accordance

1 with the rules of the Agency, require that the cost of
2 service of the subpoena or subpoena duces tecum and the fee
3 of the witness be borne by the party at whose instance the
4 witness is summoned. In such case, the State Board in its
5 discretion, may require a deposit to cover the cost of such
6 service and witness fees. A subpoena or subpoena duces tecum
7 so issued shall be served in the same manner as a subpoena
8 issued out of a court.

9 Any circuit court of this State upon the application of
10 the State Board or upon the application of any other party to
11 the proceeding, may, in its discretion, compel the attendance
12 of witnesses, the production of books, papers, records, or
13 memoranda and the giving of testimony before it or its
14 hearing officer conducting an investigation or holding a
15 hearing authorized by this Act, by an attachment for
16 contempt, or otherwise, in the same manner as production of
17 evidence may be compelled before the court.

18 (Source: P.A. 88-18; 89-276, eff. 8-10-96.)

19 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

20 (Section scheduled to be repealed on July 1, 2003)

21 Sec. 12. Powers and duties of State Board. For purposes
22 of this Act, the State Board shall exercise the following
23 powers and duties:

24 (1) Prescribe rules, regulations, standards, criteria,
25 procedures or reviews which may vary according to the purpose
26 for which a particular review is being conducted or the type
27 of project reviewed and which are required to carry out the
28 provisions and purposes of this Act.

29 (2) Adopt procedures for public notice and hearing on
30 all proposed rules, regulations, standards, criteria, and
31 plans required to carry out the provisions of this Act.

32 (3) Prescribe criteria for recognition for areawide
33 health planning organizations, including, but not limited to,

1 standards for evaluating the scientific bases for judgments
2 on need and procedure for making these determinations.

3 (4) Develop criteria and standards for health care
4 facilities planning, conduct statewide inventories of health
5 care facilities, maintain an updated inventory on the
6 Department's web site reflecting the most recent bed and
7 service changes and updated need determinations when new
8 census data become available or new need formulae are
9 adopted, and develop health care facility plans which shall
10 be utilized in the review of applications for permit under
11 this Act. Such health facility plans shall be coordinated by
12 the Agency with the health care facility plans areawide
13 health planning organizations and with other pertinent State
14 Plans.

15 In developing health care facility plans, the State Board
16 shall consider, but shall not be limited to, the following:

17 (a) The size, composition and growth of the
18 population of the area to be served;

19 (b) The number of existing and planned facilities
20 offering similar programs;

21 (c) The extent of utilization of existing
22 facilities;

23 (d) The availability of facilities which may serve
24 as alternatives or substitutes;

25 (e) The availability of personnel necessary to the
26 operation of the facility;

27 (f) Multi-institutional planning and the
28 establishment of multi-institutional systems where
29 feasible;

30 (g) The financial and economic feasibility of
31 proposed construction or modification; and

32 (h) In the case of health care facilities
33 established by a religious body or denomination, the
34 needs of the members of such religious body or

1 denomination may be considered to be public need.

2 The health care facility plans which are developed and
3 adopted in accordance with this Section shall form the basis
4 for the plan of the State to deal most effectively with
5 statewide health needs in regard to health care facilities.

6 (5) Coordinate with other state agencies having
7 responsibilities affecting health care facilities, including
8 those of licensure and cost reporting.

9 (6) Solicit, accept, hold and administer on behalf of
10 the State any grants or bequests of money, securities or
11 property for use by the State Board or recognized areawide
12 health planning organizations in the administration of this
13 Act; and enter into contracts consistent with the
14 appropriations for purposes enumerated in this Act.

15 (7) The State Board shall prescribe, in consultation
16 with the recognized areawide health planning organizations,
17 procedures for review, standards, and criteria which shall be
18 utilized to make periodic areawide reviews and determinations
19 of the appropriateness of any existing health services being
20 rendered by health care facilities subject to the Act. The
21 State Board shall consider recommendations of the areawide
22 health planning organization and the Agency in making its
23 determinations.

24 (8) Prescribe, in consultation with the recognized
25 areawide health planning organizations, rules, regulations,
26 standards, and criteria for the conduct of an expeditious
27 review of applications for permits for projects of
28 construction or modification of a health care facility, which
29 projects are non-substantive in nature. Such rules shall not
30 abridge the right of areawide health planning organizations
31 to make recommendations on the classification and approval of
32 projects, nor shall such rules prevent the conduct of a
33 public hearing upon the timely request of an interested
34 party. Such reviews shall not exceed 60 days from the date

1 the application is declared to be complete by the Agency.

2 (9) Prescribe rules, regulations, standards, and
3 criteria pertaining to the granting of permits for
4 construction and modifications which are emergent in nature
5 and must be undertaken immediately to prevent or correct
6 structural deficiencies or hazardous conditions that may harm
7 or injure persons using the facility, as defined in the rules
8 and regulations of the State Board. This procedure is exempt
9 from public hearing requirements of this Act.

10 (10) Prescribe rules, regulations, standards and
11 criteria for the conduct of an expeditious review, not
12 exceeding 60 days, of applications for permits for projects
13 to construct or modify health care facilities which are
14 needed for the care and treatment of persons who have
15 acquired immunodeficiency syndrome (AIDS) or related
16 conditions.

17 (Source: P.A. 88-18; 89-276, eff. 8-10-95.)

18 (20 ILCS 3960/12.2)

19 (Section scheduled to be repealed on July 1, 2003)

20 Sec. 12.2. Powers of the Agency. For purposes of this
21 Act, the Agency shall exercise the following powers and
22 duties:

23 (1) Review applications for permits and exemptions in
24 accordance with the standards, criteria, and plans of need
25 established by the State Board under this Act and certify its
26 finding to the State Board.

27 (1.5) Post the following on the Department's web site:
28 relevant (i) rules, (ii) standards, (iii) criteria, (iv)
29 State norms, (v) references used by Agency staff in making
30 determinations about whether application criteria are met,
31 and (vi) notices of project-related filings, including notice
32 of public comments related to the application.

33 (2) Charge and collect an amount determined by the State

1 Board to be reasonable fees for the processing of
2 applications by the State Board, the Agency, and the
3 appropriate recognized areawide health planning organization.
4 The State Board shall set the amounts by rule. All fees and
5 fines collected under the provisions of this Act shall be
6 deposited into the Illinois Health Facilities Planning Fund
7 to be used for the expenses of administering this Act.

8 (3) Coordinate with other State agencies having
9 responsibilities affecting health care facilities, including
10 those of licensure and cost reporting.

11 (Source: P.A. 89-276, eff. 8-10-95; 90-14, eff. 7-1-97.)

12 (20 ILCS 3960/12.3 new)

13 (Section scheduled to be repealed on July 1, 2003)

14 Sec. 12.3. Revision of criteria, standards, and rules.
15 Before December 31, 2004, the State Board shall review,
16 revise, and promulgate the criteria, standards, and rules
17 used to evaluate applications for permit. To the extent
18 practicable, the criteria, standards, and rules shall be
19 based on objective criteria. In particular, the review of the
20 criteria, standards, and rules shall consider:

21 (1) Whether the criteria and standards reflect
22 current industry standards and anticipated trends.

23 (2) Whether the criteria and standards can be
24 reduced or eliminated.

25 (3) Whether criteria and standards can be developed
26 to authorize the construction of unfinished space for
27 future use when the ultimate need for such space can be
28 reasonably projected.

29 (4) Whether the criteria and standards take into
30 account issues related to population growth and changing
31 demographics in a community.

32 (5) Whether facility-defined service and planning
33 areas should be recognized.

1 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

2 (Section scheduled to be repealed on July 1, 2003)

3 Sec. 13. Investigation of applications for permits and
4 certificates of recognition. The Agency or the State Board
5 shall make or cause to be made such investigations as it or
6 the State Board deems necessary in connection with an
7 application for a permit or an application for a certificate
8 of recognition, or in connection with a determination of
9 whether or not construction or modification which has been
10 commenced is in accord with the permit issued by the State
11 Board or whether construction or modification has been
12 commenced without a permit having been obtained. The State
13 Board may issue subpoenas duces tecum requiring the
14 production of records and may administer oaths to such
15 witnesses.

16 Any circuit court of this State, upon the application of
17 the State Board or upon the application of any party to such
18 proceedings, may, in its discretion, compel the attendance of
19 witnesses, the production of books, papers, records, or
20 memoranda and the giving of testimony before the State Board,
21 by a proceeding as for contempt, or otherwise, in the same
22 manner as production of evidence may be compelled before the
23 court.

24 The State Board shall require all health facilities
25 operating in this State to provide such reasonable reports at
26 such times and containing such information as is needed by it
27 to carry out the purposes and provisions of this Act. Prior
28 to collecting information from health facilities, the State
29 Board shall make reasonable efforts through a public process
30 to consult with health facilities and associations that
31 represent them to determine whether data and information
32 requests will result in useful information for health
33 planning, whether sufficient information is available from
34 other sources, and whether data requested is routinely

1 collected by health facilities and is available without
2 retrospective record review. Data and information requests
3 shall not impose undue paperwork burdens on health care
4 facilities and personnel. Health facilities not complying
5 with this requirement shall be reported to licensing,
6 accrediting, certifying, or payment agencies as being in
7 violation of State law. Health care facilities and other
8 parties at interest shall have reasonable access, under rules
9 established by the State Board, to all planning information
10 submitted in accord with this Act pertaining to their area.
11 (Source: P.A. 89-276, eff. 8-10-95.)

12 (20 ILCS 3960/19.6)

13 (Section scheduled to be repealed on July 1, 2003).

14 Sec. 19.6. Repeal. This Act is repealed on July 1, 2008
15 2003.

16 (Source: P.A. 91-782, eff. 6-9-00.)

17 Section 10. The Hospital Licensing Act is amended by
18 changing Sections 8, 8.5, and 9.3 and adding Sections 9.4 and
19 9.5 as follows:

20 (210 ILCS 85/8) (from Ch. 111 1/2, par. 149)

21 Sec. 8. Facility plan review; fees.

22 (a) Before commencing construction of new facilities or
23 specified types of alteration or additions to an existing
24 hospital involving major construction, as defined by rule by
25 the Department, with an estimated cost greater than \$100,000,
26 architectural plans and specifications therefor shall be
27 submitted by the licensee to the Department for review and
28 approval. A hospital may submit architectural drawings and
29 specifications for other construction projects for Department
30 review according to subsection (b) that shall not be subject
31 to fees under subsection (d). The Department must give a

1 hospital that is planning to submit a construction project
2 for review the opportunity to discuss its plans and
3 specifications with the Department before the hospital
4 formally submits the plans and specifications for Department
5 review. Review of drawings and specifications shall be
6 conducted by an employee of the Department meeting the
7 qualifications established by the Department of Central
8 Management Services class specifications for such an
9 individual's position or by a person contracting with the
10 Department who meets those class specifications. Final
11 approval of the plans and specifications for compliance with
12 design and construction standards shall be obtained from the
13 Department before the alteration, addition, or new
14 construction is begun.

15 (b) The Department shall inform an applicant in writing
16 within 10 working days after receiving drawings and
17 specifications and the required fee, if any, from the
18 applicant whether the applicant's submission is complete or
19 incomplete. Failure to provide the applicant with this
20 notice within 10 working days shall result in the submission
21 being deemed complete for purposes of initiating the 60-day
22 review period under this Section. If the submission is
23 incomplete, the Department shall inform the applicant of the
24 deficiencies with the submission in writing. If the
25 submission is complete and the required fee, if any, has been
26 paid, the Department shall approve or disapprove drawings and
27 specifications submitted to the Department no later than 60
28 days following receipt by the Department. The drawings and
29 specifications shall be of sufficient detail, as provided by
30 Department rule, to enable the Department to render a
31 determination of compliance with design and construction
32 standards under this Act. If the Department finds that the
33 drawings are not of sufficient detail for it to render a
34 determination of compliance, the plans shall be determined to

1 be incomplete and shall not be considered for purposes of
2 initiating the 60 day review period. If a submission of
3 drawings and specifications is incomplete, the applicant may
4 submit additional information. The 60-day review period
5 shall not commence until the Department determines that a
6 submission of drawings and specifications is complete or the
7 submission is deemed complete. If the Department has not
8 approved or disapproved the drawings and specifications
9 within 60 days, the construction, major alteration, or
10 addition shall be deemed approved. If the drawings and
11 specifications are disapproved, the Department shall state in
12 writing, with specificity, the reasons for the disapproval.
13 The entity submitting the drawings and specifications may
14 submit additional information in response to the written
15 comments from the Department or request a reconsideration of
16 the disapproval. A final decision of approval or disapproval
17 shall be made within 45 days of the receipt of the additional
18 information or reconsideration request. If denied, the
19 Department shall state the specific reasons for the denial
20 and the applicant may elect to seek dispute resolution
21 pursuant to Section 25 of the Illinois Building Commission
22 Act, which the Department must participate in.

23 (c) The Department shall provide written approval for
24 occupancy pursuant to subsection (g) and shall not issue a
25 violation to a facility as a result of a licensure or
26 complaint survey based upon the facility's physical structure
27 if:

28 (1) the Department reviewed and approved or deemed
29 approved the drawing and specifications for compliance
30 with design and construction standards;

31 (2) the construction, major alteration, or addition
32 was built as submitted;

33 (3) the law or rules have not been amended since
34 the original approval; and

1 (4) the conditions at the facility indicate that
2 there is a reasonable degree of safety provided for the
3 patients.

4 (c-5) The Department shall not issue a violation to a
5 facility if the inspected aspects of the facility were
6 previously found to be in compliance with applicable
7 standards, the relevant law or rules have not been amended,
8 conditions at the facility reasonably protect the safety of
9 its patients, and alterations or new hazards have not been
10 identified.

11 (d) The Department shall charge the following fees in
12 connection with its reviews conducted before June 30, 2004
13 under this Section:

14 (1) (Blank).

15 (2) (Blank).

16 (3) If the estimated dollar value of the major
17 construction is greater than \$500,000, the fee shall be
18 established by the Department pursuant to rules that
19 reflect the reasonable and direct cost of the Department
20 in conducting the architectural reviews required under
21 this Section. The estimated dollar value of the major
22 construction subject to review under this Section shall
23 be annually readjusted to reflect the increase in
24 construction costs due to inflation.

25 The fees provided in this subsection (d) shall not apply
26 to major construction projects involving facility changes
27 that are required by Department rule amendments or to
28 projects related to homeland security.

29 The fees provided in this subsection (d) shall also not
30 apply to major construction projects if 51% or more of the
31 estimated cost of the project is attributed to capital
32 equipment. For major construction projects where 51% or more
33 of the estimated cost of the project is attributed to capital
34 equipment, the Department shall by rule establish a fee that

1 is reasonably related to the cost of reviewing the project.

2 Disproportionate share hospitals and rural hospitals
3 shall only pay one-half of the fees required in this
4 subsection (d). For the purposes of this subsection (d), (i)
5 "disproportionate share hospital" means a hospital described
6 in items (1) through (5) of subsection (b) of Section 5-5.02
7 of the Illinois Public Aid Code and (ii) "rural hospital"
8 means a hospital that is (A) located outside a metropolitan
9 statistical area or (B) located 15 miles or less from a
10 county that is outside a metropolitan statistical area and is
11 licensed to perform medical/surgical or obstetrical services
12 and has a combined total bed capacity of 75 or fewer beds in
13 these 2 service categories as of July 14, 1993, as determined
14 by the Department.

15 The Department shall not commence the facility plan
16 review process under this Section until the applicable fee
17 has been paid.

18 (e) All fees received by the Department under this
19 Section shall be deposited into the Health Facility Plan
20 Review Fund, a special fund created in the State treasury.
21 All fees paid by hospitals under subsection (d) shall be used
22 only to cover the direct and reasonable costs relating to the
23 Department's review of hospital projects under this Section.
24 Moneys shall be appropriated from that Fund to the Department
25 only to pay the costs of conducting reviews under this
26 Section. None of the moneys in the Health Facility Plan
27 Review Fund shall be used to reduce the amount of General
28 Revenue Fund moneys appropriated to the Department for
29 facility plan reviews conducted pursuant to this Section.

30 (f) (Blank).

31 (g) The Department shall conduct an on-site inspection
32 of the completed project no later than 15 business 30 days
33 after notification from the applicant that the project has
34 been completed and all certifications required by the

1 Department have been received and accepted by the Department.
 2 The Department may extend this deadline only if a federally
 3 mandated survey time frame takes precedence. The Department
 4 shall provide written approval for occupancy to the applicant
 5 within 5 working days of the Department's final inspection,
 6 provided the applicant has demonstrated substantial
 7 compliance as defined by Department rule. Occupancy of new
 8 major construction is prohibited until Department approval is
 9 received, unless the Department has not acted within the time
 10 frames provided in this subsection (g), in which case the
 11 construction shall be deemed approved. Occupancy shall be
 12 authorized after any required health inspection by the
 13 Department has been conducted.

14 (h) The Department shall establish, by rule, a procedure
 15 to conduct interim on-site review of large or complex
 16 construction projects.

17 (i) The Department shall establish, by rule, an
 18 expedited process for emergency repairs or replacement of
 19 like equipment.

20 (j) Nothing in this Section shall be construed to apply
 21 to maintenance, upkeep, or renovation that does not affect
 22 the structural integrity of the building, does not add beds
 23 or services over the number for which the facility is
 24 licensed, and provides a reasonable degree of safety for the
 25 patients.

26 (Source: P.A. 91-712, eff. 7-1-00; 92-563, eff. 6-24-02;
 27 92-803, eff. 8-16-02; revised 9-19-02.)

28 (210 ILCS 85/8.5)

29 Sec. 8.5. Waiver or alternative compliance ~~of compliance~~
 30 ~~with rules or standards for construction or physical plant.~~
 31 Upon application by a hospital, the Department may grant or
 32 renew a the waiver or alternative compliance methodology ~~of~~
 33 ~~the hospital's compliance~~ with a ~~construction or physical~~

1 plant rule or standard, including without limitation rules
2 and standards for (i) design and construction, (ii)
3 engineering and maintenance of the physical plant, site,
4 equipment, and systems (heating, cooling, electrical,
5 ventilation, plumbing, water, sewer, and solid waste
6 disposal), and (iii) fire and safety, and (iv) other rules or
7 standards that may present a barrier to the development,
8 adoption, or implementation of an innovation designed to
9 improve patient care, for a period not to exceed the duration
10 of the current license or, in the case of an application for
11 license renewal, the duration of the renewal period. The
12 waiver may be conditioned upon the hospital taking action
13 prescribed by the Department as a measure equivalent to
14 compliance. In determining whether to grant or renew a
15 waiver, the Department shall consider the duration and basis
16 for any current waiver with respect to the same rule or
17 standard and the validity and effect upon patient health and
18 safety of extending it on the same basis, the effect upon the
19 health and safety of patients, the quality of patient care,
20 the hospital's history of compliance with the rules and
21 standards of this Act, and the hospital's attempts to comply
22 with the particular rule or standard in question. The
23 Department may provide, by rule, for the automatic renewal of
24 waivers concerning construction or physical plant
25 requirements upon the renewal of a license. The Department
26 shall renew waivers relating to construction or physical
27 plant standards issued pursuant to this Section at the time
28 of the indicated reviews, unless it can show why such waivers
29 should not be extended for the following reasons:

30 (1) the condition of the physical plant has
31 deteriorated or its use substantially changed so that the
32 basis upon which the waiver was issued is materially
33 different; or

34 (2) the hospital is renovated or substantially

1 remodeled in such a way as to permit compliance with the
2 applicable rules and standards without substantial
3 increase in cost.

4 A copy of each waiver application and each waiver granted
5 or renewed shall be on file with the Department and available
6 for public inspection.

7 The Department shall advise hospitals of any applicable
8 federal waivers about which it is aware and for which the
9 hospital may apply.

10 In the event that the Department does not grant or renew
11 a waiver of a rule or standard, the Department must notify
12 the hospital in writing detailing the specific reasons for
13 not granting or renewing the waiver and must discuss possible
14 options, if any, the hospital could take to have the waiver
15 approved.

16 This Section shall apply to both new and existing
17 construction.

18 (Source: P.A. 92-803, eff. 8-16-02.)

19 (210 ILCS 85/9.3)

20 Sec. 9.3. Informal dispute resolution. The Department
21 must offer an opportunity for informal dispute resolution
22 concerning ~~the application of building codes for new and~~
23 ~~existing construction and related~~ Department rules and
24 standards before the advisory committee under subsection (b)
25 of Section 2310-560 of the Department of Public Health Powers
26 and Duties Law of the Civil Administrative Code of Illinois.
27 Participants in this process must include representatives
28 from the Department, representatives of the hospital, and
29 additional representatives deemed appropriate by both parties
30 with expertise regarding the contested deficiencies and the
31 management of health care facilities. If the Department does
32 not resolve disputed deficiencies after the informal dispute
33 resolution process, the Department must provide a written

1 explanation to the hospital of why the deficiencies have not
2 been removed from the statement of deficiencies.

3 (Source: P.A. 92-803, eff. 8-16-02.)

4 (210 ILCS 85/9.4 new)

5 Sec. 9.4. Findings, conclusions, and citations. The
6 Department must consider any factual information offered by
7 the hospital during the survey, inspection, or investigation,
8 at daily status briefings, and in the exit briefing required
9 under Section 9.2 before making final findings and
10 conclusions or issuing citations. The Department must
11 document receipt of such information. The Department must
12 provide the hospital with written notice of its findings and
13 conclusions within 10 days of the exit briefing required
14 under Section 9.2. This notice must provide the following
15 information: (i) identification of all deficiencies and areas
16 of noncompliance with applicable law; (ii) identification of
17 the applicable statutes, rules, codes, or standards that were
18 violated; and (iii) the factual basis for each deficiency or
19 violation.

20 (210 ILCS 85/9.5 new)

21 Sec. 9.5. Reviewer quality improvement. The Department
22 must implement a reviewer performance improvement program for
23 hospital survey, inspection, and investigation staff. The
24 Department must also, on a quarterly basis, assess whether
25 its surveyors, inspectors, and investigators: (i) apply the
26 same protocols and criteria consistently to substantially
27 similar situations; (ii) reach similar findings and
28 conclusions when reviewing substantially similar situations;
29 (iii) conduct surveys, inspections, or investigations in a
30 professional manner; and (iv) comply with the provisions of
31 this Act. The Department must also implement continuing
32 education programs for its surveyors, inspectors, and

1 investigators pursuant to the findings of the performance
2 improvement program.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".